

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 17.8.505 pertaining to air quality)
operation fees) (AIR QUALITY)

TO: All Concerned Persons

1. On June 22, 2018, the Board of Environmental Review published MAR Notice No. 17-397 regarding the public hearing on the proposed amendment of the above-stated rule at page 1132 of the 2018 Montana Administrative Register, Issue Number 12.

2. The board has amended ARM 17.8.505 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

17.8.505 AIR QUALITY OPERATION FEES (1) through (6) remain as proposed.

(7) The air quality operation fee for facilities other than portable facilities or registered oil and gas well facilities is:

(a) remains as proposed.

(b) a tonnage fee of an amount not to exceed ~~\$45.37~~ \$44.35 per ton of the actual, or the estimated actual, emissions by the facility during the previous calendar year of PM-10, sulfur dioxide, lead, oxides of nitrogen, and volatile organic compounds.

(8) remains as proposed.

(9) The air quality operation fee for registered oil and gas well facilities is ~~\$900~~ \$850.

(10) through (13) remain as proposed.

3. The following comments were received and appear with the board's responses:

COMMENT NO. 1: The department provided comments at the public hearing recommending that the board adopt the following operation fees:

(a) in ARM 17.8.505(7), for facilities other than portable facilities or registered oil and gas well facilities, a per-ton fee of \$44.35. In the notice of public hearing that initiated this rulemaking, the board proposed to increase the per-ton fee to an amount not to exceed \$45.37. After that notice was issued, the department was able to determine more precisely its program costs and the amount of revenue it would receive from the federal government and the state general fund. After discussing the amount of the fee with stakeholders, the department determined that the smaller increase to \$44.35 per ton was sufficient to fund the department's program.

(b) in ARM 17.8.505(9), for registered oil and gas well facilities, an annual operation fee of \$850. In the notice of public hearing that initiated this rulemaking,

the board proposed to increase the fee to \$900. After the notice was issued, the department was able to determine more precisely its program costs and the amount of revenue it would receive from the federal government and the state general fund. After discussing the amount of the fee with stakeholders, the department determined that an increase to \$850 was sufficient to fund the department's program.

COMMENTS NO. 2 and 3: The board received comments that while an increase in operating fees was unwanted, regulated entities understood sufficient fees were necessary to enable the department to continue implementing the air quality program. The regulated entities appreciated the department's engagement of a stakeholder process and wished to be included in future fee discussions.

RESPONSE: The board appreciates the comments.

4. No other comments or testimony were received.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ Edward Hayes
EDWARD HAYES
Rule Reviewer

By: /s/ Christine Deveny
CHRISTINE DEVENY
Chairman

Certified to the Secretary of State, October 9, 2018.